

# EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 103, “Corporal Punishment Ban; Restraint; Physical Confinement and Detention,” Iowa Administrative Code.

In 2008, detailed rules regarding seclusion (“time out” rooms) and restraint of students, including allowable parameters when a student is physically confined or detained, were added to this chapter. Item 1 contains a technical correction only. Iowa Protection and Advocacy has suggested amendments to the rules that the Department believes are in the best interest of students, and these are reflected in Item 2.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the October 6, 2010, Iowa Administrative Bulletin as **ARC 9146B**. Public comments were allowed until 4:30 p.m. on October 26, 2010. Iowa Protection and Advocacy stated that it is concerned about the expectation that a school district will self-report. The Department believes that there are sufficient mechanisms (records must be maintained and available for inspection, as well as the periodic accreditation site reviews by Department staff) to negate this concern. The rules are not further amended to reflect this comment.

The Iowa State Education Association commented that the requirement that results of an investigation be communicated to parents of an affected student may violate the confidentiality of personnel records under Iowa Code section 22.7(11). The Department agrees and has amended Item 2 to add the phrase “to the extent permitted by law.” Also, proposed Item 3 was not adopted in deference to a comment from a member of the Administrative Rules Review Committee. Other than as so noted, these amendments are identical to those published under Notice.

These amendments shall become effective March 30, 2011.

These amendments are intended to implement Iowa Code sections 256B.3 and 280.21.

The following amendments are adopted.

ITEM 1. Amend rule **281—103.6(256B,280)**, numbered paragraph “5,” as follows:

5. The period of detention and confinement is reasonable, considering the age, size, and physical and mental condition of the student subject to confinement and detention, and not in excess of the hours in a school day as defined by local board policy or rule; however, reasonable periods of before- and after-school detention are permissible. If a period of physical confinement and detention exceeds the shorter of 60 minutes or the school’s typical class period, staff members shall evaluate the continued need for physical confinement and detention, shall obtain administrator (or designee) approval for any continued confinement and detention ~~beyond the initial periodic reevaluation~~, and shall comply with any administrator (or designee) directives concerning any continued confinement and detention;

ITEM 2. Adopt the following new numbered paragraphs “5” and “6” in rule **281—103.8(256B,280)**:

5. An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more of the provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any required corrective action;

6. If any alleged violation of this chapter is also an allegation of “abuse” as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 shall be applicable.

[Filed 1/28/11, effective 3/30/11]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.